

1979 WL 43227 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 17, 1979

*1 Henry C. Chambers
Mayor
City of Beaufort
P. O. Drawer 1167
Beaufort, South Carolina 29902

Dear Mr. Chambers:

Attorney General McLeod has referred your letter of January 4, 1979, to me for reply. You have requested an opinion as to what the southern and eastern limits of the City of Beaufort are.

Since at least 1958, according to the information which you have provided, the Beaufort Municipal Ordinances have designated this boundary as 'due east to the eastern shore of Beaufore River, thence down Beaufort River following the shore line to where the same intersects the western line of Hamar Street extended . . .'. The river turns at right angles at the City of Beaufort. At present the southernmost and easternmost water which separates Beaufort from Lady's Island at this location is known as Factory Creek. The Beaufort Marina has contended that this business is in fact out of the corporate limits of the city because Factory Creek is not Beaufort River.

Our research has revealed no case directly on point. However, 2 McQuillin, Municipal Corporation, § 7.07 points out that 'a boundary formed by a river is not changed by the river changing its course.' If a physical change in the river cannot change the municipal boundary, it is unreasonable to conclude that a mere change in usage surrounding the name of the body of water can change the boundary, which was intended to extend to a particular point on the

You have also enclosed a copy of an 1809 statute which sets out the boundary of the Town of Beaufort at that time. When that statute was enacted, the Beaufort River was known as the Port Royal River. It is highly unlikely that if the name of the river had been changed to Beaufort River without an amendment to this boundary statute the effect would be to eliminate any southern and eastern boundary for the city. The intent to extend the municipal boundary to a given point would be the controlling factor in such a case, and the same is true in this case. Accordingly, it is the opinion of this Office that the boundary of Beaufort is a southern and eastern shore of that body of water which was formerly known as Beaufort River but now is called Factory Creek.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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